NEWS

Winchester Select Board deems dog a ‘nuisance’ after biting young child

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A Winchester family says their 6-year-old son was bitten by their neighbor’s dog after he tried to retrieve his ball from their yard. The child received eight stitches as a result of the bite and suffered an infection. COURTESY PHOTO

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The 30 lb. Labradoodle named Jack, who bit a young boy, has be determined by the Select Board, to be a nuisance dog, but what

remediation the dog and his family will face has yet to be finalized.

A July 16 public hearing was the continuation of a dangerous dog hearing opened July 9 after the Murphy family filed a complaint against the Spence family and their dog, Jack. On May 12, Jack bit the Murphy's 6-year-old son resulting in eight stitches and, according to the boy's mother, Alexandra Murphy, significant trauma for the boy.

The hearing on July 9 opened with the Spence family and supporting witnesses testifying, but had to be continued. The Murphy family and their supporting witnesses had their day Wednesday evening.

The Murphy's side

Alexandra Murphy told the Select Board her family and the Spences had been close friends since they moved next door in 2020.

"We have treated each other's homes and yards as extensions of our own," she said.

She said the older Spence boys have babysat for her young children, they borrow tools and pantry items from each other, the Spence boys even encouraged the Murphy kids to use their old tree fort.

Murphy called theirs a reciprocal relationship and said any implication that her son was untrustworthy or unwelcome was false. Isole Spence had testified last week that there was no open invitation regarding the Murphy children and her yard.

Murphy said she was watching her other two children when her son's ball went over the fence and he went to get it. Murphy said she heard her son scream and when she looked over, she saw him darting around t Spence's backyard trying to get away from the dog.

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She said she sprinted over to the Spence's yard and grabbed her son, who was bleeding and crying in pain and took him home.

Murphy said Isole Spence, who followed her into the house, downplayed the wounds, calling them small punctures. But Murphy said it was clear to her that they were deep wounds.

She and her husband, Doug, took their son to the hospital where they irrigated, cleaned and stitched up wounds with a total of eight stitches.

Murphy said the next day her son was lethargic and in pain, which they thought was a result of the incident. When the child woke up on May 14 with a fever of 104, the parents went back to the hospital and were subsequently sent to Boston Children's Hospital, where the young boy was ultimately admitted and given IV antibiotics.

"We believe the Spences are irresponsible dog owners," Murphy said. "They've shown a disregard for community."

Murphy said she could confirm that Jack has bitten three children in three years and called it reckless that they planned to keep the dog. Referring to an incident that happened in April, where Jack lunged at a 7-year-old girl, Murphy said she didn't bring any action against the Spences then "because they were our friends."

"We know things can happen with dogs, but then the attack happened on our son," she said.

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Danielle Piantedosi also regrets not bringing action back in April [illegible] her daughter that was bitten. Paintedosi said once she cleaned her

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daughter's arm, she could clearly see a puncture wound and bruising.

"I should have reported it," she said. "The Winchester Police called me a few weeks later, and I reported the incident to them. I should have done it sooner, and I didn't, and Wes got attacked three weeks later."

Murphy said ultimately she would like to see the dog re-homed, but Town Counsel Stephen Chaplin told her state statute precludes the Select Board from ordering the dog out of Winchester.

"We're mostly just concerned about this happening again. You know this, this wasn't a one-time accident," said Doug Murphy, the boy's father.

Doug Murphy called the incident an unprovoked attack and the most concerning part was that there had been multiple similar attacks.

"It's just not a matter of if, but when this will happen again, if some sort of measure is not taken," he said.

Doug Murphy said it was up to the Select Board to decide the best measures to prevent another future incident, "because the last thing we want to see is something more tragic happen."

Other testimony

Over attorney Jeremey Cohen's objections, Richard Mucci, a former Select Board member and possible new neighbor to the Spence family was allowed to testify at the hearing. Cohen represents the Spence family.

Mucci said he and his neighbors are concerned about the possibility of Jack moving into their neighborhood.

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"There is no fence on that property. It is very close to an active sidewalk and that area is the VO (Vinson-Owen Elementary) School District," said Mucci, whose home is across the street. "The school's less than 1,000 feet away, I believe, and dozens of children walk along that sidewalk."

He said there is also a bus stop for middle and high school students in the vicinity and that it's a busy avenue for walkers, joggers and cyclists.

When asked for his thoughts on remedial actions, Mucci said if there is no fence, he thought the dog should be leashed at all times when on the property and muzzled when off the property. He also suggested signage warning people of the dog and perhaps having the school educate children not to walk past the home.

Cohen asked Mucci if he wanted to educate "the students to scare them that there's the dog here that might ravage them," would he also be willing to teach them how to approach a dog and to not go into a gated fenced area.

Chaplin called that an inappropriate line of questioning. Cohen reminded everyone that during last week's hearing, the Spences said they would install a fence at the new house.

"However, until they put up a fence...the dog will not come with them to this neighborhood until a fence is put in," he said.

The board's charge

The Select Board was tasked with making two determinations: Does Jack fit the statutory definition of a nuisance dog, a dangerous dog or neither under Massachusetts General Law, Chapter 140 Subsection 157? And, what remedial actions might be appropriate?

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Cohen said his clients have been reasonable and credible right from the start, never denying their dog bit the Murphy boy and never blaming anyone else. At the same time, he said they're spending "a ton of money" on training, tools and equipment to make sure it doesn't happen again.

Cohen noted if the dog is determined to be a nuisance, it actually allows for more safety measures to be put in place, and "I think that's the goal of the hearing."

He also noted that while it doesn't compare to the trauma the boy went through, the Spences have been going through their own pain for what happened.

Chaplin agreed that according to state law, the determination of nuisance dog does allow for more remedial measures. If a dog is declared dangerous, there are only seven specific measures that can be taken and they don't align with some of the things the community, Cohen and Chaplin have in mind.

Chaplin asked Cohen if the Spences would agree to installing a fence, post signage and a muzzle order. Cohen said he thought a temporary muzzle order would make sense, until there is a comfort level with the dog's training.

He also said the dog would be crated if no one was home and would never be outside unattended and when off property would be leashed and with an adult.

After some discussion, Select Board Chair Michelle Prior also added it should be a 3 foot leash when in public, make sure the dog is licensed and vaccinated annually, and he is not to be allowed on the Vinson-Owen property.

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The question requiring the Spences to carry additional insurance also came up, but was not decided.

Select Board member Michael Bettencourt said he appreciated the Spence family's willingness to put conditions voluntarily on themselves, but wants to make sure they are monitored and followed.

Board member Paras Bhayani asked what the board's remedy would be in the conditions weren't followed.

"There's a potential criminal route. This violation of an order is actually a crime," Chaplin said. "There's also a potential civil remedy whereby we could seek an injunction through the courts. And it's the same process, whether the finding is dangerous, or the finding is nuisance."

"The claimants are essentially demanding a lot of what the respondents are already offering," said Select Board member Bill McGonigle. "It's almost interesting that we had to spend all this time on this."

Chaplin told the Select Board he would draft a decision based on Wednesday evening's agreement. The board can then deliberate, vote on and sign or amend that decision at its next public meeting, scheduled for Monday, July 28.

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